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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/091,637	03/05/2002	Kurt R. Linberg	P-8557.05	9741
27581	7590	10/13/2004	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604			EVANISKO, GEORGE ROBERT	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/091,637

Applicant(s)

LINBERG, KURT R.

Examiner

George R Evanisko

Art Unit

3762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

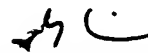
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 21-25.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


George R Evanisko
Primary Examiner
Art Unit: 3762

Continuation of 2. NOTE: In claim 21, "over a network connection comprising" is vague and it can not be determined if the network connection is being positively recited. In addition, "comprising a communications protocol" is vague since it can not be determined whether the network connection of the programmer includes the communications protocol.

Continuation of 3. Applicant's reply has overcome the following rejection(s): 112 second paragraph rejections, 103 rejection in view of Thompson.

Continuation of 5. does NOT place the application in condition for allowance because: the prior art of Snell still meets the limitations of the claims. The argument that Snell does not teach "a communications protocol that emulates a client/server model such that commands entered on the programmer are executed as if entered directly on the remote data center" is not persuasive since Snell states: that the programmer and server use a X.25, AppleTalk, TCP/IP, etc protocol (col 4); the network server includes components for receiving commands and data from the network programmers (col 4); the network server is controlled, via appropriate commands entered at the network programmer (col 4); the network server provides data...on demand to the network programmer based upon commands entered at the network programmer (col 7); the network server provides computing services to the network programmer, executes programs on-demand utilizing any combination of data provided by the network programmer (col 7), etc.

The argument that the 112 first paragraph rejection should be withdrawn because a Telnet protocol inherently provides for "commands entered on the programmer are executed as if entered directly on the remote data center" is persuasive and the specification needs to be amended to include this claimed subject matter.